



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,314	01/10/2001	Dan Mielke	9458.4884	9864

7590 02/05/2003

Dale Paul DiMaggio, Esq.
Malin, Haley & DiMaggio, P.A.
1936 South Andrews Avenue
Fort Lauderdale, FL 33316

EXAMINER

KUHNS, ALLAN R

ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 02/05/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	09/760,314	Applicant(s)	MIELKE ET AL.
Examiner	KUHN	Group Art Unit	1732

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE(3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

Responsive to communication(s) filed on _____

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1 - 20 is/are pending in the application.

Of the above claim(s) 19 - 20 is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1 - 18 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) 1 - 20 are subject to restriction or election requirement

Application Papers

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

All Some* None of the:

Certified copies of the priority documents have been received.

Certified copies of the priority documents have been received in Application No. _____.

Copies of the certified copies of the priority documents have been received
in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). 4 Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

Art Unit: 1732

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-18, drawn to a method for manufacturing vehicle hulls, classified in class 264, subclass 46.5.
 - II. Claims 19-20, drawn to a vehicle hull, classified in class 114, subclass 271.
2. The inventions are distinct, each from the other because:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product structure as claimed, or as imputed from the steps practiced, can be made by another and materially different process such as one in which a hull is formed in the sequence of (1) top layers, (2) foam layer, and (3) bottom layers rather than forming the top and bottom layers and then forming the foam layer therebetween.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art requiring divergent fields of search for the respective inventions, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Joseph R. Englander on January 29, 2003 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-18. Affirmation of this election must be made by applicant in replying to this Office action.

Art Unit: 1732

Claims 19-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is confusing because several phrases within the claim lack antecedent basis. These are “the bottom gel coat”, “the top gel coat”, “the top mating portion of the top bonding surface”, and “the bottom mating portion of the bottom bonding surface”. Also, claim 16 is confusing because line 3 refers to “clay” while line 7 refers to “modeling clay”.

Clarification is required.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham et al. in view of Hegg and Hordis. Graham et al. disclose the basic claimed method for manufacturing vehicle hulls including (1) applying a protective or gel coating to top and bottom molds, (2) applying top and bottom layers of bulk fiberglass or glass fibers (column 3, lines 70-75), (3) closing the molds together, (4) creating a piece including at least one cavity, (5) forming at least one foam introduction hole through the outer surface of the piece into the cavity, and (6) introducing foam into the cavity through the foam introduction hole. Graham et al. appear not to

Art Unit: 1732

teach the application of an additional skin layer to the gel coat, but such is taught by Hegg at column 2, line 70 to column 3, line 5. It would have been obvious to one of ordinary skill in the art to incorporate this teaching of Hegg into the method of Graham et al. in order to provide backing for the gel coat layers. Graham et al. also do not teach the aspect of applying an adhesive to top and bottom mating portion of bonding surfaces, but such is taught by Hordis at column 4, lines 48-50. It would have been obvious to one of ordinary skill in the art to incorporate this teaching into the method of Graham et al. in order to define the cavity for receipt of foam material.

It is submitted that the space of Hordis for receiving adhesive is within the range recited in claim 2. Graham et al. teach the forming of holes, as in claim 3, and curing, as in claim 6. Providing reinforcement, as in claims 4-5, is well known and would have been obvious to one of ordinary skill in the art in order to strengthen the hull.

8. Claims 7-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham et al. in view of Hegg and Hordis as applied to claims 1-6 above, and further in view of Kurtz et al. Kurtz et al. disclose the necessity of removing air during the manufacture of glass fiber reinforced composites with gel coats (note column 1, lines 35-52), including hulls. It would have been obvious to one of ordinary skill in the art to remove air, as taught by Kurtz et al., in order to avoid the formation of voids. The means of air removal recited in dependent claims are well known and would have been obvious to one of ordinary skill in the art to expediently eliminate voids.

Art Unit: 1732

9. Claims 11, 13, 15 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (703) 308-3462. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30. The examiner can also be reached on alternate .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino, can be reached on (703) (703) 308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Allan R. Kuhns

ALLAN R. KUHNS
PRIMARY EXAMINER A U 1732

1 - 30 - 03